

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

ROCKY DOUGLAS IDLEMAN,

Petitioner,

v.

Civ. Action No. 2:19-CV-43
(Kleeh)

UNITED STATES OF AMERICA,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 7] AND
DISMISSING ACTION WITHOUT PREJUDICE

On September 25, 2019, the pro se Petitioner, Rocky Douglas Idleman ("Petitioner"), filed a Complaint against the Respondent, the United States of America ("Respondent"). Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the action to United States Magistrate Judge Michael J. Aloï (the "Magistrate Judge") for initial review. On April 28, 2020, the Magistrate Judge entered a Report and Recommendation ("R&R"), recommending that the Court dismiss the action without prejudice for failure to prosecute.

The R&R informed Petitioner that he had fourteen (14) days from the date of service of the R&R to file "specific written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection." It further warned him that the "[f]ailure to timely

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file written objections . . . shall constitute a waiver of de novo review by the District Judge and a waiver of appellate review by the Circuit Court of Appeals." Plaintiff accepted service of the R&R on May 5, 2020. To date, no objections have been filed.

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations" to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the R&R [ECF No. 7]. This action is **DISMISSED WITHOUT PREJUDICE** and **STRICKEN** from the Court's active docket.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record via email and the pro se Petitioner via certified

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mail, return receipt requested, at the last known address shown on the docket.

DATED: January 28, 2022

/s/ Thomas S. Kleeh

THOMAS S. KLEEH

UNITED STATES DISTRICT JUDGE